



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

CHAN

April 4, 2013

Memorandum for: Deputy Commissioner Trials

Re: **Sergeant Thomas Hunter**  
Tax Registry No. 915925  
81<sup>st</sup> Precinct  
Disciplinary Case No. 2010-2262

The above named member of the service appeared before Deputy Commissioner Martin G. Karopkin on March 27, 2012, May 9, 2012 and December 13, 2012 and was charged with the following:

**DISCIPLINARY CASE NO. 2010-2262**

1. Said Sergeant Thomas Hunter, while assigned to the Internal Affairs Bureau, on or about April 15, 2010, while off-duty, was discourteous to a civilian during a motor vehicle accident, to wit: said Sergeant stated in a rude and hostile manner, "What the fuck's wrong with you, my son's in the car."

**PG 203-09, Page 1, Paragraph 2**

**GENERAL REGULATIONS**

2. Said Sergeant Hunter, while assigned as indicated above, on or about May 3, 2010, while off-duty, was discourteous to Police Officer Adrian Phagoo, 68<sup>th</sup> Precinct, to wit: said Sergeant displayed his middle finger to Officer Phagoo and stated in a rude and hostile manner in sum and substance, "What are you going to do? You think your [sic] somebody because your [sic] in uniform. Your [sic] nobody."

**P.G. 203-09, Page 1, Paragraph 2**

**GENERAL REGULATIONS**

3. Said Sergeant Hunter, while assigned as indicated above, on or about May 3, 2010, while off-duty, was discourteous to Captain James Grant to wit: said Sergeant stated in a rude and discourteous manner in sum and substance, "Now I see why the 68 cops are disrespectful, it comes from the top."

**P.G. 203-09, Page 1, Paragraph 2**

**GENERAL REGULATIONS**

In a Memorandum dated February 22, 2013, Deputy Commissioner Karopkin found Sergeant Hunter Guilty of Specification Nos. 1, 2, and 3 in Disciplinary Case No. 2010-2262. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

Sergeant Hunter's discourteous behavior was unprofessional and not indicative of how a member of the service, especially a supervisor, should comport himself. Therefore, Sergeant Hunter shall forfeit thirty (30) vacation days and he shall be placed on a one-year dismissal probation period, as a disciplinary penalty.



Raymond W. Kelly  
Police Commissioner



POLICE DEPARTMENT

The  
City  
of  
New York

February 22, 2013

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Thomas Hunter  
Tax Registry No. 915925  
81 Precinct  
Disciplinary Case No. 2010-2262

The above-named member of the Department appeared before me on March 27, 2012, May 9, 2012 and December 13, 2012, charged with the following:

1. Said Sergeant Thomas Hunter, while assigned to the Internal Affairs Bureau, on or about April 15, 2010, while off-duty, was discourteous to a civilian during a motor vehicle accident, to wit: said Sergeant stated in a rude and hostile manner, "What the fuck's wrong with you, my son's in the car."

P.G. 203-09, Page 1, Paragraph 2 - GENERAL REGULATIONS

2. Said Sergeant Hunter, while assigned as indicated above, on or about May 3, 2010, while off-duty, was discourteous to Police Officer Adrian Phagoo, 68<sup>th</sup> Precinct, to wit: said Sergeant displayed his middle finger to Officer Phagoo and stated in a rude and hostile manner in sum and substance, "What are you going to do? You think your [sic] somebody because your [sic] in uniform. Your [sic] nobody."

P.G. 203-09, Page 1, Paragraph 2 - GENERAL REGULATIONS

3. Said Sergeant Hunter, while assigned as indicated above, on or about May 3, 2010, while off-duty, was discourteous to Captain James Grant to wit: said Sergeant stated in a rude and discourteous manner in sum and substance, "Now I see why the 68 cops are disrespectful, it comes from the top."

P.G. 203-09, Page 1, Paragraph 2 - GENERAL REGULATIONS

The Department was represented by Vivian Joo, Esq., Department Advocate's Office, and Respondent was represented by Dominick Revellino and Rocco Avallone, Esqs., Cronin and Byczek, LLP.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

Respondent is found Guilty as charged.

### SUMMARY OF EVIDENCE PRESENTED

#### The Department's Case

The Department called Police Officer Adrian Phagoo, Sergeant Mohammad Khan, Captain James Grant, Lieutenant Nicholas McAteer, and Vicky Jocelin as witnesses.

#### Police Officer Adrian Phagoo

Phagoo has been employed by the Department for five years. He was recently transferred to the Organized Crime Control Bureau (OCCB), but prior to that he was assigned to the 68 Precinct for four years.

On May 3, 2010, Phagoo was assigned to the 68 Precinct, working a tour of 1030 x 2235 hours, as the summons officer. He was in uniform and in a marked patrol car. At approximately 1900 hours on this day, he was at the intersection of Fifth Avenue and

Senator Street monitoring traffic on both sides of Fifth Avenue. While he was performing his duties, he observed a gray sedan heading northbound on Fifth Avenue with a driver who was operating the vehicle without a seat belt. Phagoo testified that he proceeded to pull the vehicle over on 63 Street and Fifth Avenue. Phagoo stated that when he approached the vehicle, he observed the driver (Respondent), a female, and a baby in a car seat in the rear of the vehicle. Phagoo asked Respondent for his license, registration and insurance and indicated to him why he was being pulled over. Phagoo testified that the Respondent identified himself as Sergeant Thomas Hunter.

Phagoo testified that upon telling Respondent about the traffic violation that had occurred, Respondent stated, "I thought we had this conversation before." Phagoo further testified that he then had recollect ed an incident that had occurred with Respondent approximately six months to a year prior and he asked Respondent if he ever got in touch with Phagoo's platoon commander (Lieutenant Kenneth Noonan).

Phagoo stated that in September of 2009, he was working at the intersection of Fifth Avenue and 86 Street, and there is no left turn from northbound Fifth Avenue onto westbound 86 Street. Phagoo had observed a white BMW proceed through the intersection and make a left turn going westbound on 86 Street. Phagoo had pulled the vehicle over and approached the driver (Respondent). Phagoo testified that Respondent was on his cell phone and held up his index finger, gesturing for Phagoo to hold on. Phagoo stated that Respondent had inquired why he was being pulled over and Phagoo advised him, "There's no left turn here and also you're on the cell phone." Respondent identified himself as, "I'm Sergeant Hunter from IAB [the Internal Affairs Bureau]" and Phagoo replied "Okay." Phagoo stated that during his interaction with Respondent the

conversation had changed and Respondent was looking for somebody that had disrespected his wife by throwing either a Sergeants Benevolent Association (SBA) card or registration card at his wife. Phagoo told Respondent, "I have no idea. What are you talking about? I mean, I could call a platoon commander here at the scene." Phagoo stated that Respondent replied, "No, don't worry about it, just go back and do what you were doing." Phagoo testified that Lieutenant Noonan was his platoon commander at the time. Phagoo said that Respondent "came off a little rough" when he was talking about somebody disrespecting his wife. Phagoo further stated, "You know, a little bit cocky because, I mean, I pulled him over and he didn't put down the cell phone right away, he told me to hold on. So a little bit cocky." Phagoo did not recall if there was anyone else in Respondent's vehicle at that time and he did not issue a summons to Respondent. Phagoo testified that Respondent then left the scene at that point.

Phagoo testified that in regards to the May 3, 2010 incident, where Respondent had told him that they had this discussion before, they then talked about Noonan. Phagoo testified that he asked Respondent what Noonan had said about him and Respondent replied, "Nothing...What is he supposed to say?" Phagoo replied, "Nothing" and the conversation went back and forth and in some substance Respondent had inferred that Noonan said that Phagoo had to be disrespectful because he had to issue 30 summonses a day. Respondent told Phagoo, "We could get him on the phone right now, what's your name?" Phagoo had returned to his vehicle and Respondent then exited his car and stated, "Go ahead, make your little u-turn, sorry you didn't get this number." Phagoo did not say anything to Respondent at this point, nor did he issue Respondent any summonses and he just left the scene.

Phagoo testified that he returned to monitor traffic at the intersection of Fifth Avenue and Senator Street and he observed another vehicle heading northbound on Fifth Avenue with a front seat passenger without a seat belt. As Phagoo was attempting to pull the vehicle over near the intersection of 67 Street and Fifth Avenue, he did not get a chance to actually stop that vehicle. Phagoo at the time was driving with his driver's side window down and he heard Respondent yell, "Yo," and Respondent drove past him headed southbound on Fifth Avenue with his middle finger out of his driver's side window. At this point, both Phagoo and Respondent were in their vehicles. Phagoo testified that he left his car stop, made a U-turn, followed Respondent, and proceeded to pull him over again. Phagoo pulled Respondent over on the corner of 68 Street and Fifth Avenue. Phagoo further testified that they both came to a stop and before he could exit his vehicle Respondent was already out of his vehicle. Phagoo exited his vehicle and began to approach Respondent and that is when Respondent started yelling, "What are you going to do, what are you going to do. You're nobody, you think you're somebody in that uniform disrespecting civilians." At this point, Phagoo backed up and requested over the radio that a patrol supervisor come to the scene.

Phagoo testified that he did not respond to Respondent's comments and he described Respondent as "pretty loud." Phagoo stated that on the opposite side of the street people started to gather and there was one male witness in a black (Cadillac) Escalade who pulled up and asked Phagoo if he was okay. Phagoo testified that Respondent then said to that individual, "Don't worry, I'm on the job, he's calling a sergeant to talk to a sergeant." Phagoo kept trying to raise the patrol sergeant (Sergeant Mohammad Khan) on the radio. Phagoo stated that Respondent was not intimidating to

him but that he was just loud. He further stated that Respondent stood next to his vehicle talking loudly and Phagoo stood next to his own vehicle.

Phagoo stated that approximately 17 minutes had elapsed between the first stop where the Respondent was not wearing his seat belt to the second encounter where Respondent displayed his middle finger. Phagoo testified that he had tried to raise Khan twice over the radio and did not get him, so he called Khan on his cell phone. After successfully talking to Khan on the cell phone, it took Khan about one minute to arrive at the scene. While waiting for Khan to arrive, Respondent asked Phagoo if he had called for a supervisor and Phagoo shrugged his shoulders. Phagoo testified that prior to Khan's arrival, Respondent also stated, "This is a battle you don't want."

Phagoo testified that Khan had arrived on the scene and they pulled off of Fifth Avenue onto 68 Street. Phagoo had explained to Khan what had transpired, as did the Respondent. Phagoo at no point interrupted Respondent when he was speaking to Khan. Phagoo acknowledged that there was also a woman with a child in the car and the woman said to Phagoo, "Yes, you're the one that threw the card at me." Phagoo did not respond to the woman's comment and he did not recall if she was referring to an SBA card or a registration card.

On cross-examination, Phagoo acknowledged that he has five years with the Department and he has been assigned to OCCB for approximately two days and that prior to this assignment he worked in the anti-crime unit in the 68 Precinct. In the 68 Precinct, Phagoo had gone from summons enforcement to the anti-crime unit.

Phagoo acknowledged that on the day of the incident he was monitoring traffic at the intersection of Fifth Avenue and Senator Street. Phagoo further acknowledged that

he observed a grey sedan with the Respondent not wearing a seat belt and he proceeded to pull Respondent and the vehicle over using his vehicle lights and “not too many sirens...just maybe a little honk.” Phagoo acknowledged that Respondent pulled over and that he walked over to the vehicle and requested Respondent’s license, registration and insurance card. Phagoo stated that Respondent asked why he was being pulled over and then he identified himself and said, “I thought we had this conversation before?”

Phagoo acknowledged that in the September 2009 incident, he observed a white BMW make an illegal left turn and that was the reason why he pulled this car over. Phagoo testified that in this stop he had requested Respondent’s license, registration and insurance card and Respondent was on his cell phone. Respondent did not identify himself right away but instead gestured with one finger up for Phagoo to wait, which he did. Respondent then inquired as to why he was being stopped and Phagoo told him, “There was a sign no left turn and also you’re on the cell phone.” Phagoo acknowledged that he then had a conversation with Respondent and it was in regards to the Respondent looking for someone, a police officer, who had been disrespectful towards Respondent’s wife. Phagoo thought that Respondent was a little cocky and a little rough. Phagoo acknowledged that he used his discretion and chose not to issue a summons to Respondent and Phagoo did not recall who left the scene first.

Phagoo once again acknowledged that on May 3, 2010 he was monitoring traffic and observed a grey sedan in which the Respondent was driving and not wearing a seat belt. Phagoo pulled Respondent’s vehicle over and requested his information and that’s when Respondent stated I believe we had this conversation before. Phagoo acknowledged that he and Respondent had a five minute conversation about the prior

incident and Noonan. Phagoo further acknowledged that he once again exercised his discretion and did not issue Respondent a summons.

Phagoo then left the scene first and within the same vicinity, approximately five or six minutes later, he observed another vehicle with that driver not wearing a seat belt. Phagoo testified that he never actually stopped the second vehicle as they were headed northbound on Fifth Avenue and he was slowly trying to pull that vehicle over to the side of the road. At this point, Respondent's vehicle was traveling southbound on Fifth Avenue and Phagoo heard someone yell, "Yo." Phagoo turned, looked up, and saw Respondent who was giving him the finger. Phagoo testified that he did not observe Respondent committing any traffic violation but that he disengaged the car stop he was performing and he pursued Respondent. Phagoo made a U-turn with his lights on and pulled Respondent over on 68 Street and Fifth Avenue. Both Phagoo and Respondent exited their vehicles, with the Respondent walking to the rear of his own vehicle and Phagoo walking to the front of his vehicle. Phagoo agreed that Respondent then said, "What are you going to do?" and further stated, "You're nobody. Who do you think you are in uniform disrespecting civilians?" Phagoo testified that he did not respond to that comment but instead chose to call for a supervisor. Phagoo acknowledged that Respondent inquired if Phagoo had called for a supervisor and that he just shrugged at Respondent. Phagoo acknowledged that Respondent was loud but he was not intimidated or threatened by Respondent.

Phagoo testified that when Khan arrived, both he and Respondent explained to Khan what had transpired. Phagoo acknowledged that Respondent told Khan to speak to Phagoo first.

Sergeant Mohammad Khan

Khan has been a member of the Department for 10 years and has been assigned to the Counterterrorism Division for a little over a year. Khan has been a sergeant for more than three years.

On May 3, 2010, Khan was assigned to the 68 Precinct, where he had worked for approximately a year-and-a-half. Khan testified that he was working that day and was assigned as the third platoon patrol supervisor. Khan acknowledged that at approximately 1917 hours, he received a call on his cell phone from Phagoo, who requested an “85” non-emergency at 68 Street and Fifth Avenue. Khan testified that Phagoo did not indicate why he wanted him to respond and Khan described Phagoo’s tone of voice as calm. When Khan inquired why Phagoo needed him, Phagoo told him that he could not explain over the phone and that he wanted Khan to respond to the location.

Khan testified that while he was assigned as a sergeant in the 68 Precinct he indirectly had an opportunity to supervise Phagoo. Khan described Phagoo as “very polite” and stated that he was never disobedient nor did he ever have any issues with his assignments.

Khan testified that after he received the cell phone call from Phagoo he responded to 68 Street and Fifth Avenue. Upon arriving on the scene, Khan stated that he observed approximately 15 to 20 people and they were pointing toward 68 Street. Khan stated that he observed Phagoo and Respondent, who had identified himself with his Department identification. Khan testified that both Phagoo and Respondent were standing outside of their vehicles and he asked Respondent, “What’s the matter.” Respondent told Khan,

“Why don’t you ask Officer Phagoo to explain it for us?” Khan described Respondent’s tone as loud. Khan also spoke to Phagoo at the scene and he stated that Phagoo had advised him that he pulled over Respondent who had identified himself as a member of the servie (MOS), so he let him go. Phagoo further explained to Khan that Respondent came back and extended his middle finger to him. Khan questioned Phagoo whether he had actually seen the middle finger and Phagoo replied, “Yes, I did see the middle finger.” Khan described Phagoo’s demeanor as calm.

Khan testified that he did not get the full story from Respondent at the scene because he was “a little loud” and Respondent had said, “Ask Officer Phagoo.” Khan spoke to Phagoo and when he went back to Respondent, he was still “very loud.” At that point, Khan told both Phagoo and Respondent that they had to go back to the 68 Precinct. Khan testified that Respondent had also said that Phagoo was disrespectful to his wife in the past. Respondent then told Khan that he needed to drop his wife at 92 Street before responding to the 68 Precinct, and Khan told him that he could do that. Khan testified that at no time did Phagoo interrupt Respondent while Respondent was speaking with Khan. Khan testified that both Phagoo and Respondent responded to the 68 Precinct and he met with Respondent in the muster room and spoke to him. Khan asked Respondent if he wanted to tell him what had happened and Respondent advised Khan that he spoke to his representation and was himself advised not to answer any questions. Khan then took Respondent’s identification card and first notified Captain James Grant, who was the Executive Officer (XO) of the 68 Precinct. Khan thought Grant was on duty, but he was off duty, so Khan notified the Borough to call the duty captain.

Khan testified that after speaking to Respondent he went back out to the scene to get information and to see if there were any witnesses. Khan had met with a Person A<sup>1</sup> who was a store owner at the corner of the incident location. Person A had informed Khan that Phagoo and Respondent were very loud. Person A knew Phagoo because he writes summonses in the area and he said no one liked Phagoo due to the fact that he is assigned to write summonses in the community. Person A stated that he felt Phagoo might need assistance and when he saw Respondent raise his hands and say, "You're a fucking nobody," Person A thought that they might have to get in there and help Phagoo. Person A then told Khan that Respondent then stated, "I'm also on the job. I work – I'm a police officer," so they backed off at that time and did not do anything.

Khan testified that after speaking to Person A he returned to the 68 Precinct and spoke to Respondent in the juvenile room and asked him if he was okay and if he needed anything. Respondent told Khan that he was being treated "like a perp" because Grant told him that if he needed to leave the station house he had to ask the desk and let them know he was leaving. Khan further testified that as he was walking away Respondent then stated, "I know where he – the cop's got the attitude from....from the top, the captain." Khan testified that he was surprised and that he told Respondent that he did not want to hear anything else. Khan then walked away. Khan testified that Respondent was referring to Grant, who was in the muster room at the time. Khan had told Grant what Respondent had said and what exactly took place in the juvenile room.

---

<sup>1</sup>The trial transcript dated March 27, 2012 identified the civilian witness as [REDACTED] when in fact his name is Person A, as per the transcript of the Department's interview of Person A dated May 5, 2010 (Department's Exhibit (DX) 1B).

On cross-examination, Khan acknowledged that Person A told him that Respondent said to Phagoo, "You're a fucking nobody." Khan also acknowledged that Person A saw Respondent raising his hands and Khan stated, "Like raising his hands in the air. Not like raising towards Officer Phagoo in any way." Khan testified that when he got back to the 68 Precinct after interviewing Person A, Respondent was in the juvenile room.

Khan testified that when he arrived on the scene, both Phagoo and Respondent were outside of their vehicles and they were not speaking to each other. Khan testified that Respondent immediately showed him his identification card. Khan acknowledged that when he asked Respondent what happened, Respondent told him to speak to Phagoo first. Khan acknowledged that he directed Phagoo and Respondent to go back to the 68 Precinct and that Respondent had advised Khan that he needed to drop off his wife and child. Khan had given Respondent permission to do so and Khan returned to the 68 Precinct. Khan testified that when he arrived at the precinct he was outside speaking to Grant on the phone. When Khan actually entered the precinct, Respondent was already there. Khan testified that Grant was off duty and was not at the precinct at that time. Khan acknowledged that once he was inside the precinct, he asked Respondent for his side of the story. Respondent told him that he had spoken with his representation and he had been advised not to speak to Khan. Khan testified that as he was making notifications, Respondent came over to him and told him that he was giving the wrong story to the Borough. Khan testified that when he called the Borough for the duty captain, he made a mistake and gave them the wrong incident location. Khan initially

said 86 Street instead of 68 Street, but he corrected himself. Khan acknowledged that the version of the incident he was telling the Borough came from Phagoo.

Khan acknowledged that after he made these notifications he went out to the scene to search for witnesses. Khan came across Person A because he owned a store on the corner of the incident location and Khan went inside and was looking for cameras or any witnesses. Person A advised Khan that he witnessed everything.

Khan acknowledged that when he returned to the precinct from interviewing Person A, he saw Respondent in the juvenile room and he went inside to see how he was doing and if he needed anything. Khan was not the person who directed Respondent to wait in the juvenile room. Khan acknowledged that at some point he requested that Respondent turn over his identification card and he took it from him so he could get his tax number and exact name for when he made notifications to the Borough. Khan did not recall if he returned Respondent's identification card to him and he stated that when he left the precinct to search for witnesses he had left Respondent in the muster room. Khan testified that when he returned, Respondent was in the juvenile room and Respondent had told Khan that he felt like he was being treated like a perp. Khan further testified that when he inquired why Respondent felt this way, Respondent said that because he was told not to leave, and that if he had to leave, he had to notify the desk officer and then leave. Khan did not know who told Respondent to do that, but he was told not to leave the command. Khan acknowledged that Respondent made a statement to him in the juvenile room that "now he knows where the cops of the 68 Precinct get their attitude from...it comes from the top." Khan testified that Grant was not in the juvenile room at

that time but that Respondent used Grant's name. Khan acknowledged that as far as he knew, Grant never heard the comment but he had asked Khan what was said.

Captain James Grant

Grant has been a member of the Department for fifteen years and has been a captain for a little over five years. Grant is currently the Commanding Officer (CO) of the 72 Precinct where he has been assigned for the past four months.

On May 3, 2010, Grant was assigned as the XO of the 68 Precinct, where he had worked for approximately 18 months. Grant testified that he was working that day and in his capacity as the XO he was assigned an investigation of an off-duty MOS. Grant testified that the member of his command that he was investigating was Phagoo, who was involved in an incident with Respondent who was off-duty.

Grant testified that he came into contact with Respondent for the first time when he was out in the field and was called back about an incident. Grant testified that when he returned to the precinct he saw Respondent, who he did not know to be Respondent at the time, outside of the precinct on his cell phone screaming and very irate. Grant walked into the Precinct and asked Khan where Respondent was. Grant was advised that Respondent was outside the precinct. Grant told Khan to bring Respondent inside and have him stand by. Grant testified that once Respondent was inside, Khan came to Grant and advised him that Respondent had to drive his wife and child home. Grant walked outside to the desk area and confronted Respondent. Grant testified that it was his duty and responsibility to explain to Respondent that he was the subject of an investigation. Grant asked Respondent where he lived and he said he lived within the confines of the 68

Precinct. Grant then asked Respondent, "Do you know you have to come back?" Grant testified that Respondent looked at him and "very disrespectfully" said, "You don't think I'm going to come back." Grant said that this interaction was the second time that he had seen the Respondent.

Grant testified that after this conversation with Respondent he went into another office with Phagoo. Grant stated that Khan came back in and advised him that Respondent had returned to the precinct. Grant came out of the office and advised Respondent to sit in the juvenile room and that if he had to leave for any reason, he was to go in front of the desk and let them know. Grant stated that at this point Respondent's facial expression showed that he was very displeased that he was ordered to do that. Grant went back into the other room with Phagoo and a short time later, Khan came back in and advised Grant that Respondent had stated to him, "I could see where all of these cops in this Precinct get their attitude from, it comes from the top down." Grant testified that he was "upset" and "angry" by this statement. Grant stated:

I felt that my first interaction that I had seen him, he was outside obviously irate. I didn't know who he was at the time but when I asked Sergeant Khan, he explained to me that the off-duty sergeant was outside. So I knew it was him. So when we brought him in and then you know, normally when I explained to him the duties, you know, his responsibility that, you know, to come back in – you know, after you drop this kid off to come back to the precinct, that he was very disrespectful and his facial expression showed me that, you know, he was talking kind of down to me. So that's when I asked for his ID card.

Grant further stated, "When he came back I instructed him, again, to sit in the juvenile room, again, his facial expressions were he wasn't very happy that I informed

him to do that. And then when Sergeant Khan came in and told me that he said that, I wasn't surprised because I knew that he was very upset."

On cross-examination, Grant acknowledged that he was working on May 3, 2010, and he was out in the field when he received a notification that Phagoo was involved in an incident with Respondent. Grant received the notification by phone and at the time he was in the confines of the 68 Precinct. Grant testified that at the time he was not involved in any police investigation or anything nor was he in uniform. Grant stated that when he came back to the precinct he saw Respondent outside of the precinct on his cell phone. Grant acknowledged that Respondent saw him and Grant stated, "Yeah, he was right in front of the precinct screaming and I walked into the precinct." Grant testified that Respondent was not screaming at him but that Respondent was on his cell phone and he was very loud. Grant did not hear any part of Respondent's conversation. Grant further testified that he walked into the precinct and went to the desk sergeant and inquired where Respondent was. Grant was informed that Respondent was outside and he directed the desk sergeant to bring Respondent inside. Grant testified that a short time later Khan came into the integrity control officer's (ICO) office and told him that the Respondent was requesting to go home. Grant acknowledged that at that point he went out and spoke to Respondent and advised him of his responsibility that he had to return. Grant further acknowledged that Respondent looked at him disrespectfully and Grant stated, "He looked at me you know, as the captain I'm giving him an order, and usually within rank structure, you know, as long as it's a lawful order, then usually it's okay." Grant testified that Respondent had asked, "You don't think I'm going to come back?" Grant testified that he perceived this to be disrespectful because he stated, "If my superior

gives me an order to do something that is lawful, I would say, no problem, I would be right back. That would be the – the answer that I was expecting was, yes, I'll be – you know, I'm just going to bring them home and I will return right back." Grant testified that Respondent's voice was somewhat elevated but Respondent was not screaming at him.

Grant testified that after this interaction he went back into the ICO's office and was getting ready to make notifications to the "Borough and whoever else." Grant acknowledged that at some point Khan came back in and advised him that the Respondent had returned. Grant testified that he then walked out to the desk area and advised Respondent that he was to sit by the juvenile room and if he had to leave the room for any reason, that he was to notify the desk officer, who in turn would notify Grant. Grant acknowledged that Respondent did not say anything but gave him a facial expression which he interpreted as the Respondent being displeased. Grant testified that he then went back into the ICO's office again and at some point Khan had entered the office and relayed to Grant a statement that Respondent had made. Grant did not have an exact time frame of how long it took Khan to come back into the office the second time, but Grant stated it was shortly thereafter. Grant acknowledged that Khan had told him that Respondent said something to the effect of: "Now I know why cops in the 68 have an attitude, it comes from the top." Grant further acknowledged that Respondent never said that directly to him.

Upon questioning by the Court, Grant testified that he did not hear the Respondent make that comment.

On cross-examination, Grant testified that he did not recall saying that Respondent spoke down to him.

Lieutenant Nicholas McAteer

McAteer, a 19-year member of the Department currently assigned to IAB Group 9, was assigned to the Special Investigations Unit, IAB Group 1 at the time of the incident in question. He testified that on May 5, 2010, he interviewed Person A and his brother Person B, in their store at 6750 Fifth Avenue in Kings County. McAteer recorded the in-person interview with the [REDACTED] brothers, but when McAteer returned to his office, he noticed that his recorder had malfunctioned and could not retrieve the recorded interviews. McAteer then conducted a telephone interview with Person A only. DX 1A is an audio recording of the telephone interview with Person A and 1B is the transcript of the interview.

McAteer testified that he separately showed the [REDACTED] brothers two photo arrays. One array contained a picture of Respondent and the other array contained a picture of Phagoo. The photo arrays were made up of five filler individuals and the subject officer.

During *voir dire* by Respondent's counsel, McAteer stated that prior to this incident, he did not know Respondent and had not met him.

DX 2 is Respondent's photo array and DX 3 is Phagoo's photo array. McAteer testified that Person A and Person B selected Respondent and Phagoo from their respective photo arrays. McAteer stated that as Person A saw Phagoo's photo array, Person A said, as he pointed at Phagoo's picture, "That's the uniform guy...I hate that

mother fucker." McAteer said "[Person A] said this particular officer always conducts enforcement in that area and he pulls him over all the time for no seatbelt, and I believe [Person A] said two weeks prior he pulled him over for wearing no seatbelt.

[Person A] said everyone in the neighborhood hates him because he's a ball breaker."

During McAteer's unrecorded in-person interview with Person B, Person B described to McAteer what he observed during the incident. McAteer reiterated Person B's version of the incident as follows. Person B was across the street when he observed the incident. Person B observed Phagoo pull over a "chubby guy" (identified as Respondent) in a Nissan Altima who came out of the car "real quick and was like puffing his chest and yelling and having a confrontation" with Phagoo. Person B then heard Respondent "saying something like, who the fuck do you think you are, you're a nobody." Person B said that Phagoo "was kind of backing up and either calling on his phone for backup."

During cross-examination, McAteer said that Person A showed him a surveillance tape of the incident. Person A was unable to make a copy for McAteer at the time, so McAteer recorded the surveillance video on his own camera.

McAteer said that he conducted an official Department interview with Respondent but not with Phagoo. However, McAteer reviewed Phagoo's May 3, 2010 official Department interview. McAteer stated that Person B was at a Dunkin' Donuts when he observed the incident. The Dunkin' Donuts is across the street from the [REDACTED] brothers' store, but at an angle. McAteer agreed that Respondent was stopped twice by Phagoo, and that the first stop was a couple of blocks away from the second stop.

During the telephone interview with Person A, Person A told McAteer that he did not witness the first or the second car stop. Person A also told McAteer that Phagoo

made a U-turn because Respondent was not wearing his seat belt. Person A did not observe Respondent display his middle finger at Phagoo. McAteer believed that "Person A was referring to him doing a U-turn, because Phagoo had pulled over a civilian vehicle separate from Respondent. And allegedly it was during that car stop that Respondent came by and gave Phagoo the finger." McAteer continued, "So I believe what [Person A] saw him U-turn from, was that civilian vehicle, not the very first incident with Respondent." This other car stop which involved the civilian was "just up the block from what Person A said."

McAteer explained that Person A observed Phagoo make a U-turn and then pull over Respondent in front of Person A's store. The cash register and counter in Person A's store is located by the front doors, on the left side, and in an "L" shape.

Vicky Jocelin

Jocelin has worked for the past two years as an Advocate Counselor at South Brooklyn Community High School. Her duties at her position require her to work with and assist over-age and under-credited high school students in gaining the credits that they need to get their high school diplomas.

On April 15, 2010, Jocelin testified that a little after midnight she was driving her Toyota Camry on the Belt Parkway in Brooklyn and was headed home from work. Jocelin testified that she was alone and that there was "bumper to bumper heavy traffic." Jocelin further testified that while she was in traffic her car had rolled into a silver Nissan vehicle in front of her because her foot had lifted off of the brake pad. Jocelin stated that once she bumped into the vehicle, the driver (Respondent) came out and started

screaming belligerently, "What the fuck is wrong with you?" Jocelin further testified that Respondent started just cursing and being very belligerent and he was waving his arms and screaming, while coming towards her. Jocelin testified that Respondent stated that his son was in the vehicle and he again asked, "What the fuck is wrong with you, why did you hit my car?" Respondent was still screaming and walking toward her and she exited her vehicle to meet him halfway to see if there was any damage to any of the vehicles.

Jocelin testified that once Respondent noted that he had his son in the car, she began to ask him if his son was okay, because as a social worker that was her primary care. Respondent told her, "My son better be okay, I'm about to check to see if my son is okay." Jocelin stated that a woman then exited the vehicle and started screaming at her as well, asking Jocelin what was wrong with her and could she not see that her son was in the car. The woman said that her son better be okay. Jocelin testified that Respondent's infant son was in the back seat of the vehicle and the woman went into the back seat and proceeded to take the child out of the car seat. Jocelin testified that the woman then brought the infant to the front of her vehicle where the headlights were shining to observe if the child was okay. Jocelin stated, "The child was not crying or making any noises or movements or anything."

Jocelin acknowledged that she exchanged information with Respondent and that he had asked for her license and insurance card. Jocelin stated that she wanted to be fully compliant knowing that she was the one that hit Respondent's car. Jocelin stated that after she had given her information to Respondent, he proceeded to say that he was an officer. After Respondent had told her that, she requested to see his identification (ID) and he showed her his ID very briefly stating, "He held it as I looked at the name and

then he quickly took it back.” Jocelin stated that Respondent’s identification was a white ID card that was faded on top, in that the letters NYPD were very faded on top. She said the picture was extremely faded and the name was in big, bold black letters on the bottom with the name “Thomas” being faded but “Hunter” was still visible. Jocelin acknowledged that the name on the ID card was “Thomas Hunter.” Jocelin did not recognize Respondent in the courtroom as the male that had given her the identification card. Jocelin described the male that she had the interaction with as a fair-skinned black male, approximately six feet tall, low shaven head close to being bald, and husky and big.

Jocelin testified that she did not receive any other identification from Respondent but she thought that his driver’s license was on the same side as his white ID card.

Jocelin stated that she wanted Respondent’s information because when he was asking for her information, he was making threats saying that she would pay for what she had done to his vehicle. Jocelin testified that she did not view any damage to Respondent’s vehicle nor was there any damage to her vehicle. Jocelin further testified that the police were not called to the scene, because when she mentioned to Respondent whether he wanted her to call the police because she was in the wrong, Jocelin said Respondent had stated, “What would you tell the police, car A hit car B? I am the police.” Jocelin acknowledged that no accident report was taken at the scene.

Jocelin testified that she did not report the accident, but approximately two hours after the incident, she went to [REDACTED] precinct at 151 Street and Amsterdam Avenue and reported the threats that Respondent had made to her while exchanging information.

Jocelin stated that the threat she reported was: “That I was going to have to pay for what I

did to his car." Jocelin testified that the only information she was able to provide was the first and last name as well as a very vague description of Respondent.

On cross-examination, Jocelin was handed and examined Respondent's ID card and stated that this was not the ID card that Respondent had showed her on the night of the incident. Jocelin stated, "It's the same type but this is not the specific one. The one that he had shown me was very faded and very hard to see." Jocelin acknowledged that she described the card she had seen at the scene of the incident as white, but that the card she examined at trial was blue. Jocelin acknowledged that after the incident was over she went to a police station to report a threat but not the accident. Jocelin denied that she did not report the accident because she was at fault. Jocelin testified that Respondent never physically threatened her. Jocelin acknowledged that she had her cell phone with her and could have called the police at anytime. Jocelin further acknowledged that Respondent never told her not to call the police nor did he tell her not to file an accident report. Jocelin testified that Respondent stated that he was an officer and he asked Jocelin for her information, which she provided to him. Jocelin stated that she had asked for Respondent's ID as he asked for her ID. Jocelin acknowledged that Respondent showed her his police ID card which was in his wallet and he did not take it out. Jocelin further stated, "He flashed it in front of me because it's in a flip, and he flashed it and then flipped it back in." Jocelin acknowledged once again that she did see Respondent's ID card, but stated, "Yes, I did, very briefly."

Jocelin acknowledged that upon hitting Respondent's car he got out of his vehicle and he was immediately cursing and screaming at her. Jocelin stated that she had stepped out of her vehicle as she saw Respondent approaching her vehicle. Jocelin did not recall

if her car window was up when Respondent initially exited his car. Jocelin acknowledged receiving a phone call from Sergeant William Grahofke from this Department and she recalled giving him a statement as to what had occurred that evening. Jocelin recalled being asked by Grahofke, "So other than so far as language use, I mean I understand there was some cursing going on, there was nothing to lead you to fear for your safety or anything like that?" Jocelin also recalled her answer to Grahofke in which she stated, "Well, the way that he, like, when he initially jumped out of his car and started walking to my car with his arms waling and his yelling and cursing at me." Jocelin further acknowledged being asked by Grahofke, "But he was making fists or he was saying, I'm going to hurt you or something? He was upset, correct?" Jocelin recalled answering, "I had my window up. I could not really hear what he was saying." Jocelin further recalled stating to Grahofke, "All I could see was him coming towards me, his mouth was moving, and it wasn't until I put my window down that I started to hear what he was saying."

Jocelin did not recall if she requested to see Respondent's driver's license. Jocelin testified that the car she was driving is owned by her mother. Jocelin acknowledged that Respondent was extremely concerned about his son and Jocelin assumed that the mother had taken the son out of the car. Jocelin acknowledged that she was concerned that Respondent might use her information to do something like file some kind of report that was not reflective of what the incident was or that he might try to doctor up the situation. Jocelin spoke to Grahofke regarding her concerns and he assured her that nothing had been filed. Jocelin was not sure if Grahofke advised her that she could still file an accident report, but she never filed one. Jocelin acknowledged that she

did not file an accident report and she was not told by Respondent not to file one. When Jocelin was asked, "So in essence what happened here is you were involved in a situation where a parent was extremely concerned for their child, correct?" she replied, "As well as their vehicle." Jocelin was then asked, "As well as their vehicle, after being hit in the rear, correct?" She stated, "Yes. Well, I – it wasn't hit. I rolled into him so there was no impact." Jocelin acknowledged that she hit Respondent's car in the rear and she was at fault.

On redirect-examination, Jocelin stated that he was standing outside of her vehicle by her driver's side window, right at the door, when the Respondent said to her, "What the fuck's wrong with you, my son's in the car?" Jocelin testified that the tone of Respondent's voice was "very loud." Jocelin testified even though she did not receive any physical threats she "felt threatened because he kept making threats, saying that I was going to pay for what I did."

On re-cross-examination, Jocelin testified that she was not sure at the time what Respondent meant when he said, "You're going to pay for what you did." Jocelin testified that her fear was that Respondent might falsify any type of record using her information. Jocelin stated, "That's how I perceived it because of his manner."

#### Respondent's Case

Respondent testified in his own behalf.

#### Respondent

Respondent has been a member of the Department for 17-½ years. Prior to his current assignment at the 81 Precinct, he had served in IAB as an investigative sergeant.

He is familiar with Patrol Guide procedures under section 206-13. He conducted between 60 or 70 cases and went on numerous call outs. He has been a sergeant since 2006. He testified that he has never been the subject of charges and specifications.

Respondent had been drafted into IAB in January 2007 and was there for three years. On his last annual performance evaluation in IAB, he received a rating of 5.0, he said. He received a rating of 4.5 from the 81 Precinct. When he arrived at the 81 Precinct in September 2007, he was the administrative sergeant. In December 2010, he was the conditions sergeant and the training sergeant, and in 2011 the domestic violence sergeant. All of these responsibilities were given to him while these charges were pending.

Respondent said he received the current charges and specifications in September 2010. With reference to the first specification, he said the accident happened on the Belt Parkway on April 15, 2010. He was headed westbound towards the Verrazano Bridge at about 10:00, 10:30 or 11:00 p.m., he was not sure of the time.

Respondent testified that he was returning to his residence in [REDACTED] [REDACTED] after taking his three-month-old son to the emergency room at Schneider Hospital at Long Island Jewish Hospital. His son had been constipated and his wife was upset so they had gone to the emergency room earlier that night. After spending several hours at the hospital, the child was discharged.

He stated that while he was on the Belt Parkway it was drizzling rain and he was in stop and go traffic. His car was rear ended by a Toyota Camry driven by Jocelin. Attempting to describe the impact, Respondent stated:

I mean, it was -- it was an impact, not like a full shot but it was a blast that would make you -- like you could get

whiplash. You know, it wasn't, you know -- my head didn't go through the windshield but I did jump. You know, it was an impact like that.

He agreed that no airbags deployed. He had been driving, his wife was in the back and he was "pretty sure" the baby had been buckled in his car seat. He stated that when he felt the impact he jumped out. He said they were in "wall to wall" traffic. He stated:

I'm walking, I get out the vehicle, I'm like -- you know, I gesture with my hands a lot, you know. And I was like, what's the problem, what you don't know how to drive. The lady, the young lady, Ms. Jocelin, she immediately get out the vehicle and she's like, I'm very sorry, I'm very sorry. She was very apologetic, she was like, I'm very sorry, I'm very sorry.

I'm like, where did you learn how to drive. My wife gets out the car with the baby so she was like -- and she was like, I'm very sorry, I'm very sorry, I'm very sorry, sir. And I'm like -- she said, your car -- and she was emphasizing, there's no damage to your car, there's no damage to your car and I'm like, ma'am, I'm not concerned about my car. It's a 2001 Altima. I'm concerned about my son. My three-month-old son.

Respondent explained that he was concerned about his son. Respondent testified that when he got out of his car, he went to the back. When Jocelin got out of her car, she headed toward him. The cars were not touching at that time. Respondent said he told her that he could not assess the damage at this time as it was dark so he said he asked for her information. He noted that other drivers were blowing their horns and that there was nowhere to pull over. He asked for her information and she refused. That is when he told her that he was a police officer. He said when she saw the identification she calmed down and provided her insurance card, license and name.

He said neither of them called 911 and that he planned on assessing the damage in the light the next day. He never made an insurance claim but did state that there was a “crease in the trunk” and reasserted that it was a “2001 Altima.” To his knowledge, Jocelin never filed a claim against him. He never spoke to Jocelin after the incident and did not see her again until she testified at this proceeding.

Respondent testified that during the incident on the Belt Parkway he never cursed at Jocelin or used profanity.

Respondent opined that, based on his experience at IAB, the charge alleged in Specification No. 1 should have been unsubstantiated. He said that in his experience an investigator looking into an allegation would interview every witness involved in the situation. He said that he and Jocelin were interviewed, but his wife was not interviewed.

Respondent testified that the incident set forth in Specification No. 2 occurred on May 3, 2010, at about 6:00 or 6:30 p.m. in Bay Ridge, Brooklyn. He said it was dusk at the time. He was heading northbound on Fifth Avenue toward a pizzeria, and at 65 Street he was pulled over by Phagoo. His wife and son were in the car as well.

When Phagoo approached the vehicle Respondent said he asked Phagoo why he had been stopped. Phagoo told him he had not been wearing his seat belt. Respondent stated that this was true: “I was not wearing my seat belt.” Phagoo asked for his license and insurance card, but Respondent did not provide them. He told Phagoo he was an MOS. He testified that Phagoo asked for his ID card, which he provided.

Respondent testified that at that point, Phagoo asked him if he had asked “Kenny” about him. Respondent said he realized that Phagoo was talking about Lieutenant Kenny

Noonan. Respondent said that he had known Noonan when Noonan had been a sergeant at IAB. Explaining why Phagoo asked about Noonan, Respondent testified:

To my knowledge, Officer Phagoo had stopped me in 2009 on a car stop. And he was like just, you know, he was talking -- he stopped me -- he stopped me for traffic infraction, so he said, and he said I made a left turn. And I know in Bay Ridge on 86<sup>th</sup> Street and Fifth Avenue there's a sign, No Left Turns, and there's time stipulations on it. I moved there in September 2009 so I wasn't aware of the time stipulations but they do allow you to make left turns but there's time stipulations. In the process of me making the illegal left turn, he pulled me over, my wife now is five months pregnant, six months -- five months pregnant. October, November, December, she's about five months pregnant. As I pulled over, my phone rings. Now, my wife was like on -- I don't know, I can't -- medical like when you're pregnant. Right now I'm trying to think, like she was like chronic sickness. So she called me. I said to him, I said, could you hold --

Respondent explained that his wife was suffering from [REDACTED] and that she was going to work but was being monitored. He continued his explanation of what happened at the stop:

So my wife called me on the phone. I pick up -- I said, Officer, I need to pick up -- I said, Officer, can I pick up the phone because I need to speak to my wife who's pregnant. So that's what I said, Officer -- I saw his name. I pronounced -- I mispronounced his name. He was like pssh, you don't know my name? And I'm looking like, you know, I've been in the Department 17 and a half years, okay. You go to roll call, Lieutenants, Sergeants, anybody, they mispronounce names all the time. I don't even know you.

Respondent continued:

So then I took the phone call, then I hung up, then I identified myself to him and everything like that. And that's when I told him, I said, you know something, I might need -- I said, you work at the 68, I said, I might need to speak to Lieutenant Noonan so he can instruct you on how

to properly conduct a car stop. I said, because, you know, everybody out here is not a perp -- I felt like he talked to me like I was, like, a nobody, you know, like -- and you don't even know me. But the whole thing about it is that it doesn't make a difference if I'm a Police Officer, they're all the same people. And we're not higher than anybody else.

Respondent testified that Phagoo's tone "died down" after he showed him his identification. Respondent said he told Phagoo that he was going to speak to Noonan about possibly instructing Phagoo on how to conduct car stops.

Respondent agreed that nothing else happened during that car stop in September 2009 and that Phagoo did not give him a summons. Respondent said he did speak with Noonan. Noonan, he said, told him that Phagoo is a good officer who "has to write" 30, 40 summonses a day. Respondent did not recall if he had any other conversations with Noonan. Respondent then explained why he had not asked Noonan to discipline Phagoo:

It was not that serious. For me being on the job 17 years, I noticed that a lot of cops when they come in, they have ego -- they have like a high ego like, I wear this uniform, you know, the streets are going to listen to me, and everything like that. And then once you get time on, you realize that, you know, these people are human beings and it has a tendency to bring it down a level. I didn't really think it was that necessary.

Respondent then went on to outline another incident that he said had occurred. Respondent testified that his wife does not drive, and "you don't want her driving." Respondent said that the incident had occurred when his wife's sister-in-law was driving. Explaining, Respondent testified:

So she said I got pulled over and they said they were pulled by an officer. They said male, he looked male Hispanic, dark, dark Hispanic. And they said he was kind of nasty to them. And my wife said that she told him that she worked at Queens DA's office and she handed him her -- my SBA

card. And he was going back and forth with them and they weren't wearing seatbelts. And she goes, listen, we were wearing our seatbelt. And the conversation kind of ended in the sense of, if you're going to write the summons, just write the summons. And he didn't write the summons but he flipped the card at her.

Respondent explained that during the stop in September 2009 for making an improper turn, he realized that Phagoo might have been the officer who had stopped his wife and had been disrespectful to her. He said that is what prompted him to mention Noonan. Respondent did not get a ticket for making the improper turn and he left.

Going back to the May 3, 2010 stop, Respondent stated that after Phagoo asked if he had spoken to Kenny, Phagoo went back to his vehicle. Respondent said that at this point he got out of his vehicle to check the spelling of Phagoo's name. He said he went up to Phagoo, who was sitting in his patrol car, and asked him for his name. After Phagoo complied, Respondent got back in his car and went to a beauty supply store and then to a pizzeria. After stopping at the pizzeria, Respondent headed back south on Fifth Avenue. Respondent described what happened:

I get to, I don't know, 67<sup>th</sup> and 5<sup>th</sup> Avenue, and Officer Phagoo pulls me over again. Okay, when he pulls me over again, I see flashing lights. I get out the vehicle. I see flashing lights, I looked in the mirror, I see Officer Phagoo. I get out the vehicle, I'm like, what are you pulling me over for. He goes, you gave me the middle finger in the car. I'm like, come on, guy, give me a break now. This is getting ridiculous.

He says, I'm going to call my supervisor. I said, nope, you need -- with that, you do need to call your supervisor because this is crazy, this is ridiculous. I said, call your supervisor over and when your supervisor -- we can talk and we can speak about how you conduct car stops and why you pulled me over for no reason.

Respondent denied ever giving Phagoo "the finger" or making any obscene gestures. He said that his wife and baby were still in the car. He said that after about 15 minutes passed, a supervisor "finally" came. Respondent noted that they had been double parked on Fifth Avenue and that he had moved his car. Respondent described what happened during the approximately 15-minute wait: "Well, I was -- I was telling him like, you know, that, you know, you think you're above the law. I said, you need to know how to treat people in the street. I said, everybody's not a perp, everybody's not a criminal."

On questioning by the Court, Respondent clarified that this conversation occurred before he moved his car. Respondent also acknowledged that this was a repeat of a conversation he had with Phagoo at an earlier stop, in September 2009.

Respondent continued his description of the scene on May 3, 2010:

So I was like, you know, just because you're in uniform, you don't have to think that you're bigger than other people. I said, you have to learn how to talk to people. I said, you can't be doing stuff that it's not the Police Department's way. I mean, I was just ramble -- basically rambling, you know, saying I was -- I mean, I talk with my hands. I'm rambling. I'm in front of my vehicle, he's in front of his vehicle. He's not saying anything. He's -- you know, he made his phone call and he's standing there.

During the conversation me saying stuff to him, there was a gentleman parked across the street in a black Ford Explorer. He looked like he could have been retired -- he asked Officer Phagoo was he okay. And I said to the gentleman, I said, gentleman -- I said to him, sir, he is okay. I'm a member of service, too, I'm just in plain clothes. Okay. You know, so we were on Fifth Avenue.

So then I realized after I said that, I just got in my car because I realized it was unsafe and pulled around the corner.

Respondent testified that Sergeant Khan finally arrived and asked him what had happened. Phagoo, he said, interrupted. Respondent then testified that "because there's people around, you know, people see a male black plainclothes, they see two officers, what's going on," Khan directed everyone to the stationhouse. Respondent reiterated that after Phagoo spoke to Khan he did not have an opportunity to tell his side of the story because when he tried to speak Phagoo interrupted him.

Respondent arrived at the 68 Precinct stationhouse with his wife and child. He said he initially spoke to Khan about taking his wife and child home as they lived about [REDACTED] away. Khan agreed, but then because Respondent felt his wife might be interviewed, he decided not to take her home.

While he was sitting at a table in the precinct, Khan asked Respondent if he wanted to tell his story. Respondent said no because he was waiting for his union delegate. Khan then started to make notifications by telephone. Respondent overheard Khan giving the wrong address for the incident and when Respondent tried to correct him, Khan said that Respondent had not told him his side of the story. Khan also took Respondent's identification card, which he then returned to Respondent.

Respondent also called his captain, Mainolfi, the CO of IAB Group 32. Mainolfi told Respondent to tell his side of the story to the duty captain, Captain Chin of the 62 Precinct, who was on his way to the 68 Precinct. Respondent went outside with his wife and child to wait in the parking lot. Chin never arrived. Captain Grant, wearing a T-shirt and shorts, did arrive and introduced himself. He took Respondent's identification card and told him to wait in the juvenile room while the investigation proceeded.

Respondent said he went over to Grant and pointed out that his wife and child were in the car. Grant told him that he would be there for a while and noted that if he had to leave he should tell the desk officer. Grant then told the desk officer, "If this guy attempts to leave, let me know." In the end, Respondent called his in-laws to pick up his wife and child. Respondent testified that once they took his ID card, he did not feel free to leave. He never asked for his ID card back.

After waiting in the juvenile room for about two hours, Respondent's union delegate arrived. Respondent's testimony then went back in time to a point before the delegate arrived and while he was in the juvenile room after his ID card had been taken by Grant. Respondent testified that Khan came in the room. Setting forth what happened then, Respondent testified:

When Sergeant Khan came into the juvenile room I said to Sergeant Khan, I said -- he said something like, what's going on. I said, I can see why the cops are disrespectful. I said, it must come from the top. And he was like -- he looked and he was like -- he just left. He left out.

Khan did not respond to Respondent and left the room. When asked who he was referring to in the comment, Respondent stated: "I was referring to Captain Grant." He explained further:

Not in a -- not in a derogatory way, I was just referring to him like if we do it in one sense, and if that's how sense -- I mean, in a supervisor's way I can see why the cops would deal with a person on the street that way.

Respondent noted that Grant was not in the room at the time the statement had been made. He also explained that his reference to police officers being disrespectful was a reference to Phagoo. Respondent noted that whenever he was interviewed about

the May 3, 2010 incident he brought up all the incidents with Phagoo. During his time at the 68 Precinct no one interviewed his wife.

On cross-examination, Respondent agreed he was familiar with investigative procedures regarding discipline. He agreed that when he received the charges in this case he also received the discovery package and the “49” requesting charges. Respondent agreed that in June 2008 he accepted a command discipline for using inappropriate language and engaging in a verbal dispute with another MOS, a traffic enforcement agent, over a parking condition.

With regard to the incident on the Belt Parkway, Respondent agreed that when he felt the bump or “jolt” the first thing he did was to get out of his vehicle and walk to the rear. He agreed that that is when he made the statement to Jocelin that she did not know how to drive. He then went to check on his son. Respondent denied saying, “What the fuck’s wrong with you, my son’s in the car.” When confronted with his official Department interview statement in which he stated that he had said that, Respondent said that he did not recall what was said. He agreed that Jocelin was apologetic and that she was not aggressive nor was she cursing. He agreed that he told her he was a police officer because “she might have been intimidated.” He agreed no accident report was ever filed.

Respondent agreed that on May 3, 2010, Phagoo pulled him over because he was not wearing a seat belt. He agreed that at that point Phagoo had a legitimate reason to pull him over. He agreed that he had been pulled over by Phagoo in September 2009. He agreed that at that time he had been pulled over for a traffic infraction. He denied that he had been on his cell phone when he made the illegal left turn. He said that when Phagoo approached him, his cell phone rang and he asked Phagoo if he could talk on the cell

phone. Respondent agreed that at that point Phagoo did not know that he was an MOS. Respondent also agreed that he knew that prior to that incident, his wife and sister-in-law had been pulled over by an MOS who had been rude to them. He also knew that this officer was working in the vicinity of Fifth Avenue and 86 Street. He also agreed that he believed that the MOS was a male Hispanic.

Respondent stated that when he was initially pulled over in September 2009, he did not know that Phagoo was the officer who had been rude to his wife. He said that after he mispronounced Phagoo's name and Phagoo made a "pshh" sound, he believed that Phagoo might have been that officer. He agreed that he had told Phagoo that he might have been the officer who had been discourteous to his wife.

Respondent agreed that he spoke with Noonan. He agreed that Noonan told him Phagoo was a very active officer. He agreed that Noonan also said that Phagoo might have had a bad day. He agreed that Noonan was "vouching" for Phagoo and said he was a nice guy. He said that it was not his concern as to whether Phagoo was a nice guy or not. He also agreed that he dissuaded his wife and sister-in-law from filing a complaint because he told them the discourteous officer might have had a bad day. He agreed his position changed when Phagoo made a hissing sound to him.

Respondent denied looking for Phagoo on May 3, 2010. Respondent said he did not immediately recognize Phagoo on that date and that he did only when he gave Phagoo his ID card and Phagoo asked him if he had spoken to Kenny.

Respondent denied raising his middle finger at Phagoo and said that what he had said at his official Department interview was that he speaks with his hands. He explained that this may have been construed by Phagoo as him raising his middle finger.

Respondent said that when he was stopped the second time by Phagoo on May 3, 2010 he asked why he was stopped and Phagoo told him that he had raised his middle finger at him. Respondent agreed that when he got out of his vehicle he was talking in a loud voice. He did not believe that his loud voice attracted the attention of the man in the truck who asked Phagoo if he was okay, but he agreed that as he had said in his official Department interview, the man thought he was a “bad guy” and that “the guy in uniform [wa]s good.”

Respondent agreed that at the 68 Precinct he did not feel free to leave. He said when Grant spoke to the desk officer, he was made to feel like a “perp.” He did not know that Grant was going to be investigating him. He acknowledged that Grant was in the stationhouse. He agreed that that day was the first time he had met Khan. He agreed that he was not friends with Khan. He admitted to making the statement to Khan. Respondent opined that it was not a disrespectful comment. “I felt that it was made addressing my opinion....” Asked if he knew the statement would get back to Grant, Respondent answered: “No, ma’am. Sergeant to sergeant I would say that statement was a disrespectful statement that will be repeated.”

On re-direct examination, Respondent agreed that Jocelin never told him she was intimidated and he agreed that it was just his impression. He agreed it was dark at the time and she was alone.

Respondent clarified that the stop in September 2009 and the stop in May 2010 were in different locations and that he had not seen Phagoo in that area prior to May 3, 2010. He did not know Phagoo was going to be there that day. He agreed that he was on his way to the beauty supply store and the pizzeria. He agreed that on the way back he

was talking to his wife. When asked if he was using his hands while he talked with his wife, Respondent said: "I -- I mean -- I mean I've -- you know I -- I -- I know that I use my hands. I'm driving. We -- yes. I guess."

Respondent said he did not see Phagoo before the second stop on May 3, 2010, and he did not know he was in the area.

On questioning by the Court, Respondent clarified that the stop on May 3, 2010 occurred at about 1900 hours and that his official Department interview at the 68 Precinct occurred at about 2:00 in the morning on May 4, 2010.

#### FINDINGS AND ANALYSIS

The three specifications in this case involve off-duty incidents that occurred on two separate dates. Specification No. 1 arises from a minor traffic accident that occurred on the Belt Parkway in Brooklyn on April 15, 2010.

On that day, Respondent was driving with his wife and child in heavy, stop and go traffic. Their car was hit in the rear by Jocelin's car. Jocelin said her foot was off the brake and the car basically rolled into Respondent's car. Respondent testified that he and his family were essentially jolted by the impact and that seems credible. It is undisputed that no one was injured and no insurance claim for damage was filed.

There are two versions of what occurred after the impact: one from Respondent and the other from Jocelin. Jocelin's version is that Respondent got out of his car and started screaming belligerently, cursing at her, waving his arms, screaming, and coming toward her. Respondent, she said, stated that he had his son in the car and that his son better be okay. Jocelin said Respondent's wife also got out and started screaming at her.

Jocelin said that she had gotten out of her car and had approached to see if there was any damage to either vehicle. She noticed Respondent's infant in the back seat.

Jocelin said Respondent asked her for her information, driver's license and insurance card which she provided. When she asked for his information, Respondent said he was a police officer and showed her some kind of ID card. Jocelin was able to get Respondent's name from the card.

Jocelin said she wanted to have the police respond but Respondent said that he was an officer and in effect the police were already there.

Jocelin drove home to Manhattan and reported the incident at a precinct there. She said she reported the matter because she felt threatened. Jocelin specifically said that Respondent had said that she was going to pay for the damage she had done to his car.

Respondent's version of the incident is that he and his wife were returning home having taken his infant son to Long Island Jewish Hospital for emergency treatment. He was on the Belt Parkway on this rainy night in stop and go traffic. Jocelin's vehicle hit his vehicle from the rear.

Respondent testified that he got out of his vehicle, went toward Jocelin, and yelled at her. According to Respondent, she became upset and to calm her down he told her that he was a police officer. He said that he told her that he was not going to assess damage to the vehicle then and there but would do so in the morning. According to Respondent, they exchanged driving information and then left.

As can be seen, the versions of the event are not very different. One of the few differences is that Respondent denied cursing. When questioned further on this issue, he claimed he could not really remember what he said. Another difference is that Jocelin

said she had wanted a police response while Respondent denied that anyone wanted to call 911 at the time.

Respondent testimony provided additional facts which support Jocelin's claim that she felt threatened. For instance, Respondent noted how concerned he was that night about his son's health, which coupled with the rain and stop and go traffic, would have made him quite tense when his car was hit. Respondent also acknowledged that while he was concerned about the safety of his son, he got out of the car and began yelling at and approaching Jocelin before he even checked on the child.

Further, in Respondent's own version of the events he acknowledged that he so upset Jocelin that he identified himself as a police officer to calm her down and reassure her.

Respondent's behavior was certainly boorish but Respondent argues it does not form the basis for a Departmental disciplinary action. Clearly Respondent's conduct was not criminal. Respondent's alleged verbal threat was not of physical harm but merely a claim that Jocelin would pay for any damage she may have done. While Jocelin claims that he did not fully and carefully identify himself at the accident scene she had enough information so that investigating officers were able to identify Respondent.

The charge itself speaks to the language Respondent allegedly used, "What the fuck's wrong with you, my son's in the car" and the manner in which he said it, which the specification claims was "rude" and "hostile." Certainly judging from Respondent's own testimony about the incident, it is fair to assume that he spoke to Jocelin in a rude and hostile manner as described by Jocelin. As previously noted, Respondent denied using profanity, but then claimed he could not remember what exactly he said. Given his

agitation and anger, it is reasonable to accept that he did curse at Jocelin as she claimed in her testimony.

For an officer to be discourteous to someone while off-duty is probably ordinarily beyond the reach of Department discipline. However, when Respondent identified himself as a police officer, that circumstance changed. By identifying himself as a police officer, he indicated to Jocelin that he stood for and represented the Department and that incorporated all of his conduct.

Jocelin further testified that when she suggested calling the police, Respondent said something to the effect that he was an officer and the police were already there. Respondent never specifically denied this statement and again given his agitation and overall behavior I find Jocelin's testimony credible on this issue. Such a comment would certainly indicate that he was acting in a police capacity.

Under all these circumstances, Respondent's conduct was related to his position as a uniformed member of this Department. Additionally the measure of Respondent's courtesy and inappropriate behavior is found in Respondent's own testimony where he acknowledged that his conduct so upset Jocelin that he had to tell her he was a police officer to calm her down.

Respondent is found Guilty of Specification No. 1.

Specification Nos. 2 & 3 arise out of a second unrelated traffic incident that occurred on May 3, 2010. Specification No. 2 relates to an interaction with an on duty uniformed officer engaged in traffic enforcement, while Specification No. 3 relates to a

further incident that occurred at the 68 Precinct stationhouse some hours after that stop.

Both of these incidents again involve allegations of boorish behavior by Respondent.

Specification No. 2 alleges that Respondent, while off-duty, "was discourteous to Police Officer Adrian Phagoo, 68<sup>th</sup> Precinct, to wit: said Sergeant displayed his middle finger to Officer Phagoo and stated in a rude and hostile manner in sum and substance, 'What are you going to do? You think you['re] somebody because you['re] in uniform. You['re] nobody.'"

Phagoo, at the time, was assigned as a summons officer. On the day in question, he was working in uniform in a marked patrol car monitoring traffic on Fifth Avenue near Senator Street in Brooklyn. He testified that he saw Respondent driving without a seat belt. He pulled the car over and noticed a female and a baby in the back seat.

When Phagoo approached the vehicle, Respondent identified himself as an MOS. Respondent then reminded him of a prior incident between them. Phagoo said that he then recalled that, indeed, they had been involved in a prior incident.

Phagoo described that incident as having occurred approximately six months earlier, sometime around September 2009. He said he had stopped Respondent for making an illegal left turn at Fifth Avenue and 86 Street in Brooklyn. When he approached the vehicle at that time, Respondent was on his cell phone and motioned for Phagoo to wait while he finished his conversation. Phagoo said that during that September 2009 stop, when Respondent got off the phone he identified himself as a sergeant in IAB. At that time, Respondent also told Phagoo that he was looking for someone who had thrown an SBA card at his wife during a still earlier traffic stop.

Phagoo said that he did not know about the incident with his wife and suggested that they could send for the platoon commander, Lieutenant Noonan.

Respondent declined calling for Noonan at that time. No summonses were issued to Respondent at that time and he went on his way.

Phagoo testified that during the May 2010 stop, when he was reminded of that earlier incident in September 2009, he asked Respondent if he had contacted Noonan. Phagoo then testified that Respondent told him that Noonan had said that Phagoo had to issue 30 summonses a day and that was why he was disrespectful. After some further discussion, Respondent left the scene. No summons was issued.

It should be noted that in his testimony, Respondent substantially agreed with this factual scenario. He said that there had been an incident in which his wife had been stopped by an officer, who he believed was Phagoo. This officer had been rude to her and “flipped” Respondent’s SBA card at her. Respondent acknowledged that he had been stopped by Phagoo in September 2009, that no summons had been issued and that he had contacted Noonan after that. Respondent also confirmed that he learned that Phagoo was issuing 30 to 40 summonses a day.

Respondent and Phagoo both agree that after the initial stop on May 3, 2010, Respondent was not issued a summons and he drove off. Both agree that he came around and passed Phagoo again. Phagoo said that as Respondent passed him, he heard Respondent call to him, “Yo,” and Respondent had his middle finger out of the driver’s side window.

Respondent admits to passing Phagoo but denies putting up his middle finger to him. He testified that he gesticulates a great deal while he talks and that perhaps Phagoo had misperceived what he was doing.

Phagoo made a u-turn and pulled Respondent over. As he approached the vehicle, Phagoo said Respondent was yelling and told him, "You're nobody, you think you're somebody in that uniform disrespecting civilians." Phagoo said he called for a patrol supervisor.

It is undisputed that Sergeant Khan, the patrol supervisor came on the scene. Khan testified that when he arrived a crowd had gathered. He described Phagoo as calm and Respondent as loud. He said that Respondent complained that Phagoo had been disrespectful to his wife in the past. Khan ordered both Phagoo and Respondent back to the precinct.

Again, there is very little factual dispute here. Respondent claims that he was denied the opportunity to tell his side of the story to Khan at the scene but agreed that the situation on the street looked bad because there was a confrontation between, as he put it, a black male in plainclothes and two uniformed officers.

That Respondent was loud on the scene is corroborated by his own testimony in which he indicates how aggrieved he was. He admits standing in the street lecturing Phagoo on how to conduct a car stop while they awaited the arrival of Khan. While his testimony about when he moved his car is a little incoherent, from what Respondent said at this trial, it would appear that this lecturing occurred while his car was double parked creating, as he put it, a dangerous situation for traffic.

The unseemliness and danger of this situation also comes from Respondent's own testimony in which he indicated that he had to calm down a "gentleman," who he believed might have been a retired member of the service, by telling that person that he too was a member of the service, only one in plainclothes. Respondent acknowledged that the scene he had created was dangerous and so after speaking to that person, Respondent testified, he got in his car and pulled around the corner.

It is also worth noting that Respondent, in his own testimony, said that Phagoo was quiet and simply waited for the supervisor, whom he had called, to arrive on the scene. It is remarkable that Respondent's own version of the incident has him behaving inappropriately while Phagoo is behaving professionally.

Further corroboration of the unseemliness of this situation is unnecessary as it is well established by the testimony of Phagoo, Khan and Respondent. However, the hearsay statement of Person A, a witness to the incident, (see DX 1A and 1B) is also worthy of consideration.

Person A described Respondent (the guy who got pulled over) as "screaming" at Phagoo. Respondent, he said, was yelling at Phagoo "like he was ready to hit him." Person A said he was surprised to see Phagoo backing up while he described Respondent as "approaching" Phagoo. He said Phagoo did not say anything but used his "walkie talkie" to call for back-up. He described Phagoo as "businesslike."

As to his personal knowledge of Phagoo, Person A said he knew him because he handed out a lot of tickets and Phagoo had pulled Person A over one day and "hammered" him (apparently with tickets). Thus, there is little reason to believe that Person A was giving a story that supported Phagoo because he liked him. A more significant reason for

crediting Person A's statement is the fact that it is undisputed and indeed corroborated by all of the other testimony about this incident.

One critical question regarding this specification, as drafted, is whether Respondent stuck his middle finger up at Phagoo. All of the circumstances suggest that Respondent did give "the finger" to Phagoo.

First of all, Respondent's claim that Phagoo misperceived his innocent hand movements for the insulting gesture is ridiculous. Respondent said he made the hand gestures while talking, which is somewhat inconsistent with the fact that he was that time driving a vehicle and should have had his hands on the wheel. More significantly, that angry and insulting gesture was wholly consistent with everything Respondent said about what was on his mind at the time, such as belief that Phagoo had disrespected his wife months earlier.

Lastly, if Phagoo had pulled him over in the mistaken belief that he had given him the finger Respondent could have corrected that misperception immediately. Instead, all of the evidence, particularly Respondent's own testimony, suggests that Respondent launched into a loud verbal disagreement with Phagoo.<sup>2</sup>

There is a second part of this specification which claims Respondent told Phagoo: "What are you going to do? You think you['re] somebody because you['re] in uniform. You['re] nobody." Respondent did not deny making this specific statement and indeed admitted to making statements to Phagoo that essentially carried this message. Respondent used the term "rambling" to describe the manner in which he was speaking to Phagoo. He certainly was angry and he acknowledged that he was loud. There is every

---

<sup>2</sup> It should be noted that I did not observe Respondent move his hands while he spoke until he dealt with that issue in his testimony.

reason to believe he made the statement or something very close in purpose and content to it. The evidence clearly establishes that Respondent made a statement that was disrespectful to an on duty uniformed member of the service who was in the midst of doing his job.

Such conduct is actionable misconduct and Respondent is found Guilty of Specification No. 2.

Specification No. 3 alleges that Respondent "on or about May 3, 2010, while off-duty, was discourteous to Captain James Grant to wit: said Sergeant stated in a rude and discourteous manner in sum and substance, 'Now I see why the 68 cops are disrespectful, it comes from the top.'"

The interesting thing about this specification is that there is absolutely no issue of fact—Respondent admits to making the statement charged.

After the incident on the street with Phagoo, Respondent was told to go to the 68 Precinct stationhouse by Khan so that the matter could be investigated. Respondent complained that he was made to wait a long time, that his wife and child were with him and that he wanted them to go home. Respondent claimed that when the executive officer of the precinct, Grant, arrived he took Respondent's identification card and told him that he was to advise the desk officer if he wanted to leave.

In his testimony Grant acknowledges this. Grant testified that he explained to Respondent that he was a member of the service who was under investigation. Respondent had wanted to take his wife and child home and Grant was concerned given the level of anger Respondent displayed that he might not return. Grant said he took his ID card to ensure his return if he left, and he told Respondent that if he had to leave the

precinct he was to inform the desk officer. Respondent eventually sent his wife and child home with a relative.

Sometime later, Khan came into the juvenile room where Respondent was waiting. Both Respondent and Khan agree that Respondent made the statement attributed to him in the specification. Grant was not present and he learned of the statement when Khan told him about it a few minutes later.

Respondent argues that this is not actionable misconduct because the statement was not made directly to Grant. The Department has argued that the statement was intended to be conveyed to Grant, while Respondent in his testimony claimed that it was a confidence among sergeants.

Certainly if the statement had been made directly to Grant or in his presence it would be discourteous. In determining if the statement made out of Grant's presence was discourteous to him, one has to examine both the context and content—in other words, what was said and the circumstances in which it was said.

The statement does not mention Grant either by name or title but does refer to those "at the top" and the executive officer, as second in command at the precinct, would certainly fall under that. Further, Grant was present and had been firm in his dealings with Respondent, so we can conclude that anyone who heard the statement would know that by those "at the top" Respondent was referring specifically to Grant. Lastly, on this point, Respondent acknowledged that he was talking about Grant.

But the statement is not just about Grant; it is about, in effect, all of the officers in the 68 Precinct and it refers to them in a disparaging fashion, claiming they are discourteous. The statement was made to Khan, a sergeant in the 68 Precinct. He, too,

was the subject of Respondent's criticism. As to Phagoo, Respondent specifically testified that he was also referring to him in the statement.

Khan and Respondent were not friends and in fact Khan was an on duty officer involved in investigating the incident between Respondent and Phagoo. Respondent did not ask that the comment be kept confidential and under the circumstances there seems to have been no logical reason to assume that the comment would be seen by Khan as a confidence among sergeants. On the contrary given the nature of the statement, which was insulting to Khan, Phagoo and Grant, there is was every reason to have assumed that Khan would convey it to his superior officer.

But even if Khan had not conveyed the statement to Grant, by its content it was intended to undermine Grant's authority and was in that sense discourteous to him. Again, it must be noted that Respondent and Khan were not two colleagues grousing about something a superior had done. Respondent was an off-duty officer being investigated in a precinct where he did not work. Khan was an on-duty officer and one of the officers involved in that investigation.

Respondent's statement was inappropriate and discourteous to Grant. Respondent is found Guilty of Specification No. 3.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on June 30, 1995. Information from his

personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has recommended a penalty involving the loss of 30 vacation days.<sup>3</sup> I believe this is the minimum appropriate penalty given Respondent's conduct. Respondent was the prime mover in three incidents involving intemperate and wholly inappropriate behavior. Each incident involves a separate person and, in the case of Jocelin, one who had no known connection with this Department or contact with Grant, Khan or Phagoo.

The small bumping incident on the Belt Parkway with Jocelin would have been long forgotten – except for Respondent's outburst. It must be borne in mind that in Respondent's own version of events he had so upset and frightened Jocelin that he told her he was a police officer to calm her down. In fact according to her testimony learning that he was a police officer only made her more nervous, which is hardly surprising given the conduct that Respondent acknowledged.

The public expects and has a right to expect that uniformed members of the service will handle ~~stressful~~ situations calmly and professionally. Behaving boorishly was bad enough, but by invoking his status as a police officer he discredited himself and the Department.

As disturbing as the interaction with Jocelin was, the interaction with Phagoo was even more troubling. Phagoo was an on-duty uniformed officer engaged in enforcement duty. Respondent confronted him publicly in the street. In his own testimony, he acknowledged that a crowd had gathered. Respondent claimed that at some time previous to the incident, Phagoo had been discourteous to his wife. As a member of IAB

---

<sup>3</sup> Respondent was apparently offered the loss of 20 vacation days, had he taken a plea.

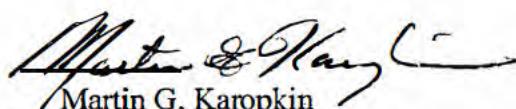
at the time he certainly was familiar with the fact that there are channels through which a complaint may be lodged against an officer. Instead, his conduct publicly demeaned a fellow officer and diminished public regard for the Department.

As has been noted, his statement to Khan was intended to diminish Grant's authority.

Respondent has pointed to his good evaluations and work record. This certainly merits and has been given consideration. It should be noted that Respondent, as brought out during the trial, also received a Command Discipline for courtesy.

Respondent has displayed a glaring lack of insight into the fact that he engaged in misconduct and a similarly glaring failure to understand its impact on the Department. Respondent's misconduct merits a substantial penalty. It is therefore recommended that Respondent forfeit 30 vacation days.

Respectfully submitted,



Martin G. Karopkin  
Deputy Commissioner – Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

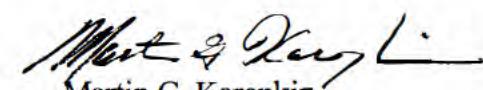
From: Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
SERGEANT THOMAS HUNTER  
TAX REGISTRY NO. 915925  
DISCIPLINARY CASE NO. 2010-2262

In 2009 and 2011, Respondent received an overall rating of 5.0 "Extremely Competent" on his annual performance evaluation. He was rated 4.5 "Extremely Competent/Highly Competent" in 2010.

[REDACTED] which was for a [REDACTED]

[REDACTED] Respondent

For your consideration.



Martin G. Karopkin  
Deputy Commissioner Trials